

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CRP, LTD.,

Plaintiff,

v.

ERIC FILTER, et al.,

Defendants.

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CIVIL ACTION NO. 06-2185 (MLC)

**MEMORANDUM OPINION**

**THE COURT** having issued a notice of call for dismissal for the plaintiff's failure to comply with Federal Rule of Civil Procedure ("Rule") 4(m) (dkt. entry no. 3); and it appearing that the plaintiff had failed to serve the summons and complaint on the defendants within 120 days after filing the complaint; and the Court advising the plaintiff that the complaint would be dismissed unless the plaintiff either (1) showed good cause for this failure, or (2) established that service was effected within the 120-day period, see Fed.R.Civ.P. 4(m); and the Court, as required, notifying the plaintiff of the intention to dismiss the complaint, see Liu v. Oriental Buffet, 134 Fed.Appx. 544, 546 (3d Cir. 2005); and

**THE PLAINTIFF** failing to respond to the Court's inquiry, even though the time to respond elapsed on October 2, 2006; and thus the Court intending to dismiss the complaint for the plaintiff's failure to comply with Rule 4(m); and

**THE COURT** also noting that the action has been pending for more than 120 days without the plaintiff having taken any proceedings, and thus the Court could dismiss the complaint for the lack of prosecution, see L.Civ.R. 41.1(a), see also Fed.R.Civ.P. 41(b) (stating complaint may be dismissed for failure to prosecute); but it appearing that it is unnecessary for the Court to balance the Poulis factors for a dismissal pursuant to Rule 41, see Poulis v. State Farm Fire & Cas. Co., 747 F.2d 863, 868 (3d Cir. 1984), as the plaintiff has run afoul of Rule 4(m); and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge